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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PALO, FRANCIS T

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,140

Applicant(s)

HSIEH ET AL.

Examiner

Francis T. Palo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Objections

1. **Claims 1 and 11** are objected to because of the following informalities:

Appropriate correction is required.

Regarding **claim-1**:

In the first line of the claim; "comprising steps" should be --comprising the steps--.

In the third line of the claim; "comprising" should be --comprises--.

Regarding **claim-11**:

In the third line of the claim; "comprises" should be --comprising--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-3, 5-13 and 15** are rejected under 35 U.S.C. 102(b) as being anticipated by Weber et al. (US 526,512) 1894.

Regarding independent **claim-1**:

Weber discloses a device for and method of planting seeds

(lines 7-9, and 37-43) comprising the steps of:

providing a sheet about 1/8th inch thick with pockets or holes

about 1/8th inch apart of a size to properly seed the ground which is desired to plant

(lines 69-73); read as, providing a thin base comprising a plurality of concavities with a specific distance interval, as cited in (a) of the instant claim.

Weber further discloses that the sheet is of sufficient thickness to allow seed pockets or holes to be made in such body to receive the seeds which are to be planted (lines 65-68). It is also well known that seeds can be quite thin in size.

Whereas Weber does not specifically recite a "thin" base as cited in the instant claim, and whereas the limitation "thin" is a broad and subjective term, the Examiner considers the Weber disclosure of "sufficient thickness" to receive the seeds and "the sheet may be about 1/8th of an inch in thickness", as reading on "thin" as cited in the instant claim.

Finally, Weber acknowledges a difficulty in thin sheet(s) paper mats in the prior art disclosure (lines 10-24), and with the limitation "thin" being unquantified in the instant claim, the Examiner maintains that the device of Weber reads on a thin base.

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Weber also discloses in the sowing method (page-2, lines 10-26) that the sheet absorbs and retains water to percolate through into the soil, and that the sheet acts in the nature as a mulch, and while germinating the seeds perfectly also retains the moisture in the ground beneath; this is read as having "water-absorbing" and "humidity-maintaining ability", as cited in paragraph (a) of the instant claim.

As regards the natural decomposing ability limitation as cited in (a) of the instant claim, Weber discloses straw or manure may be used for forming the device; both straw and manure are well known naturally decomposing materials.

The step of inlaying the seeds and covering with a securing layer as cited in (b) of the instant claim, is disclosed by Weber at lines 74-78.

The step of covering a cultivating material as cited in (c) of the instant claim, is disclosed by Weber at lines 41-43 and 80-88, and on page-2 at lines 27-30.

Regarding independent **claim-11**:

The discussion above regarding claim-1 is relied upon as encompassing the instant claim, wherein the features of the thin base as cited in the instant claim are fully recited in the discussion above.

Regarding **claims 2 and 12**:

The discussions above regarding claims 1 and 11 are relied upon.

Weber discloses the sheet in nature acts as a mulch (page-2, line-19) and while germinating the seeds perfectly also retains the moisture in the ground beneath the mat and prevents the wild grass or weeds in the soil beneath the mat from growing; this is read as light blocking material as cited in the instant claims.

Regarding independent **claim-15**:

The discussions above regarding independent claims 1 and 11 are relied upon

Weber discloses the sheet acts in the nature of a mulch (page-2, lines 19-20), this is read as a mulching paper as cited in the instant claim.

The features and functionality of the mulching paper are fully discussed above in the rejections of the independent claims.

Regarding **claims 3 and 13**:

The discussions above regarding claims 1 and 11 are relied upon.

Weber discloses the sheet or mat is made from some fibrous material to form a sheet (page-1, line-54).

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Regarding **claim-5**:

The discussion above regarding claim-1 is relied upon.

The concavity arrangement as cited in the instant claim is disclosed at lines 71-73, and the functional language of increasing absorption as cited in the instant claim would be readily apparent from the method of Weber (Page-2, lines 34-44).

Regarding **claim-6**:

The discussion above regarding claim-1 is relied upon.

The method of securing and fixing as cited in the instant claim is addressed in the discussion above regarding instant claim 1(b); the rooting functional language as cited in the instant claim is discussed by Weber at lines 27-30 on page-2, and the humidity-maintaining ability is addressed in 1(a) above.

Regarding **claim-7**:

The discussion above regarding claim-6 is relied upon.

Weber does not specifically recite toilet paper or paper-made-towel as the securing cover material.

Weber does acknowledge sheets of paper or other flexible material as prior art materials (lines 10-12), and "some fibrous material...to form a sheet" (lines 54-57),

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and that the cover may be made of the same material as the sheet (lines 78-79), and finally that straw or manure may be used.

The Examiner concludes that "some fibrous material...to form a sheet" as disclosed by Weber, anticipates the paper cover as cited in the instant claim.

Regarding claims 8 and 9:

The discussion above regarding claim-6 is relied upon.

Weber discloses "pasting or otherwise affixing the seed retaining cover upon the top of the sheet" (line-102 and on page-2, lines 1-2); this is read as attached using an adhesive, as cited in the instant claim.

The adaptability of the glue as cited in the instant claim-9 would be an apparent capability of pasting or affixing as disclosed by Weber.

Regarding claim-10:

The discussion above regarding claim-1 is relied upon.

Weber discloses the mat may be filled with flower seeds (page-2, line-34).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 4 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (US 526,512) 1894 in view of Young et al. (GB 2,270,453 A) 1994.

Regarding **claims 4 and 14**:

The discussions above regarding independent claims 1 and 11 are relied upon.

Weber does not specifically disclose the base layer as having a thickness range from 0.2-0.3 mm as cited in the instant claims.

Weber discloses "the sheet may be about 1/8th of an inch in thickness" (lines 69-70), and does acknowledge thin sheets of paper as prior art in the 1894 Patent.

Young teaches a seeding system comprising a sheet of paper perforated to provide a regular array of through holes (Abstract) and further recites a thickness in the range of from 0.02-2.0 mm. in claim-4 of the teaching, which encompasses the range cited in the instant claims.

In the absence of any stated problems solved by or any advantages obtained by having a thickness as claimed in the instant invention, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have fabricated the base of the Weber device with a thickness as cited in the instant claims, as further such modification is merely an alternate equivalent substrate means performing the same intended function of providing seed pockets to receive seeds for sowing.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Japanese Patents '522A, '808A, '303A, and the French and German references, are cited for the crowded seed carrier art and consideration of the Applicants.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 703-305-5595. The examiner can normally be reached on T-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on 703-306-4159.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4180.

Francis T. Palo

Francis T. Palo
Examiner
Art Unit 3644

FP